

August 2000
The Checks Go Out; Then the Appeals Come In

As many of you know from previous articles and the information that you received along with your PECFA payment information, the time period for filing appeals related to the "bond payments" was expanded to 90 days. This longer appeal period was necessary because of the volume of decisions issued in only a few months (over two years worth of decisions in four months). The 90 day appeal period covered all decisions issued between February 15, 2000 and June 30, 2000. We are now back to the 30-day time period for appealing new decisions - those issued after June 30, 2000. Although we will continue to receive appeals as a result of the bond payments (until September 28, 2000), we thought it might be timely to provide an update on appeals and the appeal process.

Even though bonding related appeals continue to come in, it appears that most are already in house. As of July 20th, we have received 23 appeals from the 126 February claim decisions, 356 appeals from the 1,552 March decisions, and 230 from the 1,574 April claim decisions. Appeals are still being received on April, May and June decisions so those numbers are not complete at this time. The appeal rate continues to run about 23%, however. If the 23% appeal rate continues, we will ultimately receive a total of 578 appeals from April, May and June claim decisions. This will mean an estimated 159 additional appeals from April decisions, 126 additional appeals from May claim decisions, and 51 more from June decisions. This creates a projected total, from all four months when bonding decisions were issued, of 933 appeals.

We are taking steps to handle the appeals as quickly as possible and one change we have made is that, after an appeal is acknowledged, it is immediately sent to the PECFA claim reviewer who made the original denial decision. The PECFA staff member reviews the original decision and any material that was submitted as part of the appeal and makes a recommendation, to the legal staff, on any potential for settlement.

A significant percentage of appeals involve costs that were denied only because of missing or poor documentation. When these appeals are submitted with the necessary documentation (proof of payment, copies of bids, invoices, etc.) they can and are being settled very quickly. As of July 20th, a total of 127 appeals received between February 1 and April 30 had been closed. In the period February through June, more than half (189) of the 278 appeals closed were completed within 60 days or less from the date the appeal was received.

Once the appeals that can be settled quickly have been resolved, there is still a number that can be settled. These, however, require more involvement on the part of the legal staff. Finally, there are the appeals that are not resolvable because they involve significant factual disputes or fundamental disagreements on eligibility. These appeals will ultimately have to be scheduled for a formal hearing.

To provide assistance for the appeal workload, the department has obtained approval to hire a 2 year project attorney starting September 1st. This will increase the current attorney staffing from 2 to 3.

Although the addition of a project attorney position will provide additional short-term capacity, it will be necessary to continue to investigate ways to address the new workloads. Although it is possible to resolve a segment of the appeals quickly, others will need to go through the full hearing process. Development of strategies for preventing a major increase in the hearing backlog will need to be a goal for the Department during the next year.